

Remarks

In view of the following remarks, favorable reconsideration of the outstanding office action is respectfully requested. Claims 1-68 remain in this application.

1. Protracted Examination

MPEP 707.02 states: "The supervisory patent examiners should impress their assistants with the fact that the shortest path to the final disposition of an application is by finding the best references on the first search and carefully applying them."

The latest Office Action is the third non-final Office Action received by the Applicants since October, 2002. Each Office Action has been virtually identical. In the Applicants last response, filed June 30, 2003, the deficiencies in the Examiner's rejection of claims 1 – 26 and 63 – 64 were clearly pointed out. Further, the Applicants pointed out that the Examiner failed to provide an independent examination for claims 27 – 62, and claims 65 – 68. In response to these arguments, the Examiner again repeats his rejection verbatim.

The Applicants respectfully suggest that the Examiner has already applied the best reference at his command and was unable to make a prima facie rejection. As such, the pending claims of the above-captioned application are in allowable form and patentable over the prior art of record. In all fairness to the Applicants, the application should be allowed and passed on to issue.

2. § 102 Rejections

The Examiner has rejected claims 1-68 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,397,198 to Hoffman et al. (hereinafter Hoffman). In the Applicants last response, the Applicants clearly articulated the reasons why the Examiner had failed to make a prima facie case of anticipation. In response, the Examiner has repeated his April 2, 2003 rejection verbatim. The Examiner's latest Remarks are virtually identical as well. Therefore, the Applicants reassert the Response (Paper 5) filed June 30, 2003, and incorporate it herein by reference in its entirety.

In the interests of moving this case to final disposition, the Applicants provide a clear and concise summary of the outstanding issues in the paragraphs below.

A. Claim 1 and Claim 63:

1. *The Examiner fails to show where Hoffman teaches the step of receiving a computer generated transaction identifier from a computer via an electronic link.* The Examiner asserts that this subject matter is disclosed in the Abstract, lines 1 – 7, and in col. 2, lines 38 – 59. However, this text discloses the step of pre-registering a user biometric for subsequent comparison to a user biometric sample. The cited text does not disclose computer generated transaction identifiers.

2. *The Examiner fails to show where Hoffman teaches the step of receiving both a user-spoken transaction identifier and a user-spoken verification identifier.* The Examiner asserts that this subject matter is disclosed in col. 2, lines 38 – 59 and in col. 10, lines 31 – 47. However, the cited text only discloses the step of receiving a biometric sample from a user. The cited text does not disclose receiving a user-spoken transaction identifier in addition to receiving a biometric verification identifier.

3. *The Examiner fails to show where Hoffman teaches the steps of comparing the user-spoken transaction identifier with the computer transaction identifier, and comparing the user-spoken verification identifier with a voice print of the user.* The Examiner asserts that this subject matter is disclosed in the Abstract, lines 3 – 7, col. 2, lines 40 – 59, and col. 2, lines 1 – 5. However, the cited text only discloses the step of comparing a user biometric sample with a pre-registered biometric sample. On the other hand, the claim recites that two comparisons are made. The user spoken transaction identifier is compared with the computer generated transaction identifier, and the user spoken verification identifier is compared with a user voice print.

4. *The Examiner fails to show where Hoffman teaches the step of transmitting an authentication message to the computer if both comparisons match.* The examiner asserts that this subject matter is disclosed in the Abstract, col. 3, lines 6-23, and column 4, lines 58-67. The first two citations only discuss comparing the user's a biometric sample with a previously registered biometric sample. The text in column 4 discusses the use of a PIN during user registration. The cited text simply does not disclose the step of transmitting an authentication message to the computer.

5. In light of paragraphs 1 – 4 provided above, the Examiner has failed to make a prima facie case of anticipation because he has failed to show where the reference teaches each of the steps recited in the claims. For the above reasons, the applicant respectfully asserts that claims 1 – 26 and 63 – 64 are patentable under 35 U.S.C. § 102(e).

B. Claim 27:

1. The Examiner has never provided an examination of this claim or those depending from it. Because the Examiner has never provided an examination of this claim, he cannot have made a prima facie case of anticipation. Claim 27 is directed to a system for authenticating an electronic transaction and recites a voice browser coupled to a session correlator. It is incumbent upon the Examiner to point out where Hoffman discloses each of these elements. The Examiner has simply not performed this essential task.

2. The Applicants pointed out the deficiency stated in paragraph 1 in their last response. The Examiner responds in the Remarks Section of his latest Office Action by stating that “Hoffman discloses an audio signature or voice recognition that may be in the form of an audible voice... see., col. 10, lines 31 – 47.” The Applicants respectfully point out that the cited text does not disclose any of the elements recited in the claim. The cited text merely describes the “audio signature” process used by Hoffman.

3. In light of paragraphs 1 – 2 provided above, the Examiner has failed to make a prima facie case of anticipation because he has failed to show where the reference teaches any of the elements recited in the claims. For the above reasons, the applicant respectfully asserts that claims 27 - 62 are patentable under 35 U.S.C. § 102(e).

C. Claim 65:

1. The Examiner has never provided an examination of this claim either. Again, because the Examiner has never provided an examination of this claim, he cannot have made a prima facie case of anticipation. Claim 65 is directed to a computerized method for controlling web-site navigation. As noted previously, it is incumbent upon the Examiner to point out where Hoffman discloses this subject matter. The Examiner has not done so.

2. In response to paragraph 1, the Examiner states in his Remarks that he disagrees because Hoffman “discloses a firewall 26.” In response, the Applicants respectfully make two points. One, the Examiner has failed to explain the relevance of a firewall relative to the claimed subject matter. Second, the Applicants respectfully remind the Examiner that the standard for anticipation under the statute requires that a prior art reference teach every element of the claim. The statement in the Examiner’s Remarks does not meet the articulated standard because it fails to point out where each and every element of claim 65 can be found in Hoffman.

3. In light of paragraphs 1 – 2 provided above, the Examiner has failed to make a prima facie case of anticipation because he has failed to show where the reference teaches any of the steps recited in the claims. For the above reasons, the applicant respectfully asserts that claims 65 - 68 are patentable under 35 U.S.C. § 102(e).

3. Conclusion

Based upon the remarks and papers of record, Applicant believes the pending claims of the above-captioned application are in allowable form and patentable over the prior art of record. Applicant respectfully requests reconsideration of the pending claims 1-68 and a prompt Notice of Allowance thereon.

Applicant believes that no extension of time is necessary to make this Response timely. Should Applicant be in error, Applicant respectfully requests that the Office grant such time extension pursuant to 37 C.F.R. § 1.136(a) as necessary to make this Response timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 13-2491.

Please direct any questions or comments to Daniel P. Malley at (607) 256-7307.

Respectfully submitted,

WALL MARJAMA & BILINSKI



Daniel P. Malley

Registration No. 43,443

WALL MARJAMA & BILINSKI

101 S. Salina Street

Suite 400

Syracuse, NY 13202

Date: December 15, 2003